United Nations A/64/183/Add.1

General Assembly

Distr.: General
22 September 2009

Original: English

Sixty-fourth session
Agenda item 78
Criminal accountability of United Nations officials and experts on mission

Criminal accountability of United Nations officials and experts on mission

Report of the Secretary-General

Addendum

I. Establishment of jurisdiction over crimes of a serious nature

1. Further to paragraph 16 of the report of the Secretary-General on criminal accountability of United Nations officials and experts on mission (A/63/260), Finland reported that chapter 1 of the Penal Code of Finland (Statute Book of Finland No. 39/1889) provides for the scope of application of Finnish criminal law. According to section 6:1 of the chapter, Finnish law applies to an offence committed outside Finland by a Finnish citizen. Section 11 of the chapter provides for the requirement of dual criminality. Section 11:2, however, provides for offences to which the principle of dual criminality does not apply. These include sexual offences and offences in office. Furthermore, chapter 1, section 7, of the Code prescribes international offences, which regardless of the law of the place of commission fall under Finnish jurisdiction. These include offences such as trafficking in human beings and terrorism.

2. In accordance with the Act on Military Crisis Management (Statute Book of Finland No. 211/2006), persons serving in the field of crisis management are subject to the provisions of chapter 45 of the Penal Code, which provides for military offences. The provisions of the Military Court Procedure Act (Statute Book of Finland No. 326/1983) and of the Military Discipline Act (Statute Book of Finland No. 331/1983) apply to such persons as well.

3. According to the Act on the Participation of Civilian Personnel in Crisis Management (Statute Book of Finland No. 1287/2004), civilian personnel serving in crisis management operations abroad are subject to the provisions of chapter 1 of the Penal Code. It should also be noted that in general such experts have immunity

Please recycle

against the mission's local legislation on the basis of an agreement concluded by the international organization in question.

4. As regards prosecution of offences committed abroad, charges may be brought in Finland for crimes falling under Finnish jurisdiction. In accordance with Chapter 1, section 12, of the Penal Code, in general cases shall not be tried in Finland without a prosecution order by the Prosecutor-General.

II. Cooperation between States and with the United Nations in the exchange of information and the facilitation of investigations and prosecutions

5. Concerning extradition and mutual assistance, Finnish legislation and international obligations binding on Finland enable large-scale international cooperation in matters concerning extradition and legal assistance (see also A/63/260, para. 44). The Act on International Legal Assistance in Criminal Matters (Statute Book of Finland No. 4/1994) covers matters relating to international legal assistance in general.

6. Finnish legislation also contains numerous provisions on the protection of a person involved in a criminal process, including chapter 15, section 9, of the Penal Code (criminalization of threatening a person to be heard in the administration of justice); chapter 17, section 34:1:1, of the Code of Judicial Procedure (a witness or a party has the possibility of being heard in a main hearing without the presence of the parties to the procedure or other persons); the Act on the Openness of Government Activities (Statute Book of Finland No. 621/1999) (right to access to information may be limited if access would compromise the safety, interest or rights of the witness or the other party); the Act on the Restraining Order (Statute Book of Finland No. 898/1998) (improves the legal protection of persons under possible threat); the Police Act (Statute Book of Finland No. 493/1995) (removal of a person who intrudes into domestic premises); the Act on Data on the Population (Statute Book of Finland No. 507/1993) (limitation on availability of a person's home municipality or address); the Act on Security Checks in Courts (Statute Book of Finland No. 1121/1999) (safety of persons who visit courts); the Act on the Publicity of Proceedings in General Courts of Law (Statute Book of Finland No. 370/2007) (confidentiality of trial documents); Legal Aid Act (Statute Book of Finland No. 257/2002) (legal aid at the expense of the State to a person who needs expert assistance in a legal matter and who lacks the means to pay for the expenses of the proceedings); and the Tort Liability Act (Statute Book of Finland No. 412/1974) (an injured party to a criminal matter may, in the context of the criminal proceedings, claim compensation from the offender or from State funds within the conditions and limits prescribed in the Act).